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THE OBSERVATOR.

Of the Duty of Grand Jury-men in Reſpect to the Indictors, the Perſons Indicted and the Evidence. The Lord Mayors Order relating to Bartholomew-Fair. *Remarks on the ſame.*

From Wednesday Auguſt the 18th, to Saturday Auguſt the 21ſt, 1703.

Country-m. PRAY, Sir, proceed in your Diſcourſe of the Duty of *Grand-Jury-men*, wherein you will highly oblige me, and the Company.

Obſ. When a Bill, or Indictment, is brought before the *Grand Jury*, they ought to conſider three things, 1. the *Indictors* or the Perſons that Prefer the Bill. For as the Indictment runs, *that the Perſon hath* Wickedly, Seditiouſly, *and* Traiterouſly *endeavoured to Subvert the Government*, &c. ſo the Indictors do very often *Wickedly* and *Maliciouſly* endeavour by Bill and Indictment to take away the *Life* and *Reputation* of their Neighbour. They ought to have the greateſt Care, when Indictments are brought by Order of the Government: For whoever has been King or Queen of *England*, we have often found *Parties Rule*, and *Proceſs* was ordered againſt Men, not that they were Guilty of a *Crimen læſæ Majeſtatis*, of any Crime againſt the State, but againſt Evil Miniſters, and ſo the Authority of the Prince was us'd againſt his *beſt Subjects*, which indeed is againſt Himſelf. A Wiſe and Unbiaſs'd Jury will eaſily ſee thro' this Sham. The Queen muſt not be made a Party with her Evil Officers and Corrupt Miniſters. If I have Said and Wrote any thing againſt any Officers of the Kingdom, relating to *Frauds* and *Miſmanagements*, I am ſo far Her Majeſties, and the Nations Friend: If I have falſely Accuſed them, they have their Actions at Law againſt me, in which the Queen is no Party.

But we'll bring the Point near home, becauſe they brought it near us the laſt Seſſions. What Grand Jury that had either Honour, Honeſty, or Regard to their Oaths could find the Bill againſt me? I was Indicted for writing againſt the *Papiſts*: Did I herein *Wickedly*, *Falſely*, *Seditiouſly* and *Traytorouſly* endeavour to ſubvert the Government of Queen *ANN*? And when the Grand Jury had compared the Indictment with the words and found they would not bear; muſt they yet find the Bill, becauſe *Robin Stevens* broke into the Room, and told them the Attorney and Sollicitor General waited till ſuch time as they had found the Bill? I hope *Grand Juries* are not to be Aw'd by any Perſons, eſpecially when they ſpeak to Juries by the Mouth of *Robin Stevens*, who now ſtands Indicted for *Perjury*, and had now walk'd the Streets of *London* without his Ears, if a certain Government had not Granted a *Ceſſat Proceſſus* in his Favour, and thereby put a Stop to all Proceedings againſt him. Now at firſt Sight a Jury might perceive what Work was to be done when they ſaw ſo Villainous a Tool in the Management; and it may ſeem very ſtrange, that a Fellow who is ſo abominably ſcandalous in the City, that every honeſt Man ſhuns his Company, ſhould be ſo acceptable at Court, as to make his Boaſts, That he can at any time get a Warrant againſt whom *He pleaſes*. Now I lay ſuch a Fellow as this appearing in a Court of *Juſtice* againſt a Perſon, is a ſufficient Teſtimony that the Perſon is Proſecuted for ſome indirect *Means* and *Ends*.

In the Second place the Grand Jury ought to conſider the Perſon Indicted, whether he be ſuch a Perſon as the Proſecutors make him to be by the Indictment Prefer'd againſt him. To Illuſtrate this farther: By the Bill againſt me laſt Seſſions (and that Jury may ſerve as an Example to others) no one of the *Jury* could find the leaſt diſhonourable Reflection on Her Majeſties Perſon and Government, either in the *Obſervator* or any other thing, ever Writ by me. How then could they, according to the Oaths they have taken, return me to the Court as a *Malicious*, *Wicked*, *Seditious*, and *Traiterous* Perſon? And ſuppoſe my Enemies could pick out any thing that might ſeem to bear Cauſe or Action, an honeſt Jury of *Engliſhmen* will conſider of the *Bulk*, and not of a *Scarp* of Writing: The Deſign is to be Judged by the *Whole*, and not by a *Piece*. You may make *Treaſon*, *Blaſphemy*, or whatever you pleaſe of the Scriptures, if you *Pick* and *Cull* the *Words*. Now I do defy all my Enemies to find out in any of my Papers, the leaſt *Undutiful Expreſſions* againſt Her Majeſty or Government; nay, I am ready to prove that I have wrote more in Her Majeſties Praiſe and Defence of her Government, than all the Men in *England* beſides. And I leave it to the Conſideration of all true *Engliſhmen*, whether I am fairly dealt with, and whether it be not a *Party-Proſecution*, when other Books directly againſt Her Majeſties Government, as the *Exorbitant Grants of King* William, *&c.* are paſs'd over without Proſecution? As alſo whether it be reaſonable that Men who never did their Country the leaſt Service, or ventur'd one Hair of their Head in Defence of their Queen and Realm, ſhould prefer *Malicious* and *Vexatious* Bills againſt one that has ſpent his Money and Blood in the Service of his Country? And I farther leave it to the Conſideration of our Repreſentatives in Parliament, the Nobility, Gentry and Commonalty of this Kingdom, whether Proſecutions of this Nature were not a great Means of the Charge of a Revolution, which coſt us above 70 Millions of Money?

The Third thing to be conſidered by the Grand Jury, is the Evidence or Teſtimony of the Witneſſes upon Oath; and this they are to compare with the words of the Indictment, and to ſee whether what the Evidence have Sworn do amount to what is contained in the Indictment. For the Jury are the ſole Judges of the Evidence, and are to determine in their Conſciences, whether the Words ſpoken or written have any Tendency to the Crime for which the Perſon is Indicted. The Judicious *Dalton* very well ſays, *No leſs Care or Concern lies on the Grand Jury, than does on the Petty Jury*: And the Lord

Lord *Coke*, 3 Institut. 33. plainly calls the Grand Jury-men all wilfully Perjur'd and Forsworn, if they wrongfully find an Indictment. Great regard also ought to be had to the Credibility of the Evidence, of which the Grand Jury-men are also Judges: Now tho' every Person according to our Law is *Legalis Homo*, a *Lawful Witness*, unless Convicted of Perjury; yet it may so happen that the Person not Convicted of Perjury, may appear as such in the Breast of a Jury; as for Example, *Robin Stevens* is not Convicted of *Perjury*, because a stop was put by the higher Powers to several Indictments against him for Perjury; and because the Law had not its due Currency against him, so as to Convict him; yet he standing still Indicted for Perjury, of which he has not yet acquitted himself, a Grand Jury-man may with good Conscience esteem him as a Perjur'd Person, since he has been known to be a *Hackney* Evidence in former times, and always came in to Clench a Prosecution, that is, to Swear what was thought necessary to find the Bill. Now the *Jury* ought to have great Care in this particular; for if such Persons meet with Encouragement in the City, the Life and Reputation of the best Man in *England* is not safe. But more of this the next time we meet.——Prithee what News at *London*?

Country-m. Truly Master *Observator*, I don't know how to please you with News of late, I can tell you of a pretty Story of the *Dutch* Fishery, how they have a Second time been devoured by the *French* Men of War, and the Reasons how they came to be destroyed. I can tell you what Convoys we have appointed for the *Colliers*; but I cant tell what's the matter with you of late, when I tell you of these things, you say never a Word, but like the *Welshmans* Parrot you pay it off with thinking. But I have brought you an Order of the Lord Mayors, on which I desire your Remarks; I'll read it, and I hope they will not Indict you for making Reflections upon it.

The Queen's most excellent Majesty, as also the Lords and Commons assembled in Parliament, having expressed their great Sense of the deplorable Increase of Prophaness, Vice and Debauchery in this Kingdom, and their earnest Zeal and Desires of Reformation, and Prevention thereof for the future; and Her Majesty having by Her Royal Proclamation commanded and required all Her Magistrates and Ministers of Justice, to put the Laws in full and due Execution against such Offenders: This Court, as well in Obedience thereunto, as out of their own Hearty Desire to promote Reformation in the Premises, to the Honour of Almighty God, of the Queen, and of this City, and the good Government thereof, having taken into their serious Consideration the great Prophaness, Vice and Debauchery too frequently used and practised in Bartholomew-Fair, *and to prevent the same for the future, Do hereby strictly charge and command all Persons concern'd in the said Fair, and in the Sheds and Booths to be Erected and Built therein, or Places adjacent; That they do not Let, Set, Hire, or Use any Booth, Shed, Stall, or other Erection whatsoever, to be Used or Employed contrary to Law, for* Interludes, Stage-Plays, Comedies, Gaming-places, Lotteries Musick-meetings, *or other Occasions or Opportunities for enticing, assembling or congregating Idle, Loose, Vicious and Debauch'd People together, under Colour and Pretence of Innocent Diversion and Recreation: But that all Booths, Sheds, Stalls, Shops, and other Erections during the said Fair to be had and made shall be Us'd, Exercis'd and Employ'd for Merchandizes, Trade and Commerce, according to the good Intents and Purposes designed in the Grantings, Erecting and Establishing the said Fair. And all Persons are hereby required to take Notice hereof and yield Obedience hereunto, as they will answer the contrary thereof at their Perils.*

Obs. Truly Honest *Country-man*, my writing against the Play-House is one great Argument against me; but I never fear any Indictment when I have the Lord Mayor and Court of Aldermen and the Citizens of *London* on my side. This Order is the Effect of the Presentment of the Honest and Vertuous Grand Jury of the 8th of *July* last, and it is the most reasonable thing in the World, both in Respect to Policy and Religion. The Foundation of that Fair by Charter was for Sale of Merchandize and Benefit of Trade; but in times when Vice was in Repute, it was turned into one common Brothel-house, a *Theatre* of Whores and Villains, the Devils *Raree-Show*, a Market where the worst sort of *Beasts* were exposed to Sale, the *Emporium* of Vice and Lewdness for the Inhabitants of *London* and *Westminster*, who have by dear bought Experience found the fatal Consequence of such Infernal Diversions: And pray what are now become of the Families of those Lord Mayors, that first turn'd Tradesmen out of *Smithfield-Bars*, and supplyed their Places with *Jack-Puddings* and *Tinsel* Actors? Was not the Profit of the *Booths* a Moth in their Estates, and the Wages they received for Sin the Death of their Names and Families? Does not their Memory stink in the Nostrils of all good Men; and is it not justly exposed as a Scandal to Posterity? Does this Market of Lewdness tend to any thing else but the Ruin of the *Bodies*, *Souls*, and *Estates* of the young Men and Women of the City of *London*, who here meet with all the *Temptations* to Destruction? The Lotteries to Ruin their Estates: The *Drolls*, *Comedies*, *Interludes*, and *Farces*, to poison their Minds with Motions of Lust? And in the *Cloysters* (those Conscious *Scenes* of Polluted Amours) in the Evening they strike the *Bargain* to finish their Ruin. What strange Medly of Lewdness has that place not long since afforded? Lords and Ladies, Aldermen and their Wives, Squires and Fidlers, Citizens and Rope-Dancers, Jack-Puddings and Lawyers, Mistresses and Maids, Masters and Prentices. This is not an Ark like *Noah's*, which receiv'd the clean and unclean; only the unclean Beasts enter this Ark, and such as have the Devils Livery on their Back.

Blessed be God, we have a City in some measure Reformed, and a Magistracy which does heartily Concur with Her Majesties Pious Intentions to discourage *Vice*, *Immorality*, and *Prophaness*, who has said in these Words: *It is our Royal Purpose and Resolution to Discountenance and Punish all manner of Vice and Immorality in all Persons, and every Degree or Quality within the Realm*, &c. This is the only way to procure the favour of the Almighty, to gain a Blessing on the *Crown* and *People*, to make our Navies and Armies prosperous and formidable, to make our *Court* and *City*, nay our whole *Country* the Glory of the Earth, and may the *Citizens* of *London* prosper in carrying on the Pious work they have so happily begun.

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